If the court may choose what bargain it will enforce, as being the most equitable, or what the parties might have done had they known the facts, the law will vary with the opinion of the individual chancellor. *Cf.* GRAY, RULE AGAINST PERPETUITIES, 2 ed., 590–603. The whole tendency of modern judicial thought has been against such uncertainty. See 1 POMEROY, EQUITY JURISPRUDENCE, 3 ed., § 59. While the doctrine of doing equity forces the plaintiff to respect rights of the defendant growing out of the transaction from which relief is demanded, it will not go so far as to force him to respect rights which the defendant does not have. *Manternach* v. *Studt*, 240 Ill. 464, 88 N. E. 1000. That the court believes it better for the defendant that he should have those rights should not be enough to justify it in creating them.

EXEMPTIONS — COUNTERCLAIM IN AN ACTION TO RECOVER PROPERTY EXEMPT BY STATUTE FROM EXECUTION. — In an action by a plaintiff for wages which were exempt by statute from attachment and execution, the defendant pleaded a counterclaim. *Held*, that the counterclaim should not be allowed. *Bradley* v. *Earle*, 132 N. W. 660 (N. D.).

The necessity of a liberal construction of exemption statutes, to give effect to the real intent of the legislature that a certain amount of the debtor's property be exempt from any kind of coercive process of the law, is most apparent perhaps in cases where a set-off of a debt has not been permitted against a judgment recovered against the creditor for a wrongful seizure of the exempt property. *Treat* v. *Wilson*, 65 Kan. 729, 70 Pac. 893; *Moore* v. *Graham*, 29 Tex. Civ. App. 235, 69 S. W. 200. Any other rule would seem to render exemption statutes nugatory. Some courts, however, have refused to make a liberal construction of the exemption statutes, limiting the exemption to the property itself, not including judgments representing such property, and to cases where the exemption is claimed on an actual execution. *Temple* v. *Scott*, 3 Minn. 419; *Caldwell* v. *Ryan*, 210 Mo. 17, 108 S. W. 533. The principal case, however, is in accord with the great weight of authority, which holds, it would seem correctly, that allowing a set-off in any case where what the plaintiff is suing for would ordinarily be exempt from attachment or execution, would subvert the purpose of the exemption statutes. *Millington* v. *Laurer*, 89 Ia. 322, 56 N. W. 533; *Collier* v. *Murphy*, 90 Tenn. 300, 16 S. W. 465.

FEDERAL COURTS — JURISDICTION BASED ON NATURE OF SUBJECT MATTER — SUIT AGAINST CORPORATION ORGANIZED UNDER ACT OF CONGRESS FOR UNORGANIZED TERRITORY. — The defendant corporation was incorporated under an act of Congress which extended over Indian Territory certain laws of Arkansas relating to corporations. This unorganized territory later became the State of Oklahoma, in the court of which state this suit was originally brought. *Held*, that the cause cannot be removed to the federal court. *Boyd* v. *Great Western Coal & Coke Co.*, 189 Fed. 115 (Circ. Ct., E. D. Okl.).

Corporations of the United States organized under acts of Congress are entitled to remove into the federal courts suits brought against them in state courts, since such suits arise under the laws of the United States. *Pacific Railroad Removal Cases*, 115 U. S. 2, 5 Sup. Ct. 1113. Whether corporations organized under territorial laws come within this rule is not clear on the authorities. Corporations organized under acts of territorial legislatures have not been considered federal because of their local nature. *Maxwell* v. *Federal Gold & Copper Co.*, 155 Fed. 110. *Cf. United States* v. *Pridgeon*, 153 U. S. 48, 14 Sup. Ct. 746. However, the contrary view is taken where corporations are organized under acts of Congress for unorganized territories. *Canary Oil Co.* v. *Standard Asphalt & Rubber Co.*, 182 Fed. 663. It is difficult to perceive any substantial distinction between these cases. Acts of territorial legislatures are really vicarious acts of Congress. See *Snow* v. *United States*, 18 Wall. (U. S.) 317, 321;

Binns v. *United States*, 194 U. S. 486, 491, 24 Sup. Ct. 816, 817. Moreover, the United States Supreme Court has held corporations to be federal when formed under acts for the District of Columbia. *Knights of Pythias* v. *Kalinski*, 163 U. S. 289, 16 Sup. Ct. 1047. But see *Daly* v. *National Life Ins. Co.*, 64 Ind. 1. The principal case must rest on the proposition that upon the admission of a territory into the Union corporations created under territorial law become *de jure* corporations of the state. See *Kansas Pacific Ry. Co.* v. *Atchison, Topeka & Santa Fé R. Co.*, 112 U. S. 414, 415, 5 Sup. Ct. 208.

INSURANCE — DEFENSES OF INSURER — SUICIDE OF INSURED. — A life insurance policy waived the statutory defense of death by suicide. *Held*, that the waiver was not contrary to public policy. *Mutual Life Ins. Co.* v. *Durden*, 72 S. E. 295 (Ga., Ct. App.). See NOTES, p. 283.

INSURANCE — INSURANCE AGENTS — EFFECT OF DELIVERY OF POLICY TO AGENT. — An application for an insurance policy provided that the insurance should not take effect unless the policy was delivered to the insured. The policy was forwarded to a general agent of the company who failed to deliver it to the soliciting agent because of the indebtedness of the soliciting agent to the company. The applicant died before the policy was handed over to him or to the soliciting agent. *Held*, that there can be a recovery on the policy. *New York Life Ins. Co.* v. *Pike*, 117 Pac. 899 (Colo., Sup. Ct.).

It is generally held that delivery to the agent is delivery to the applicant, since the agent is not the agent to hold the policy for the company, but to hold it for and give it to the applicant. *New York Life Ins. Co.* v. *Babcock*, 104 Ga. 67, 30 S. E. 273; *Hallock* v. *Commercial Ins. Co.*, 26 N. J. L. 268. It is not material that the agent receiving delivery is not the agent who procured the application. *Kilborn* v. *Prudential Ins. Co.*, 99 Minn. 176, 108 N. W. 861. It has been held that the contract of insurance is not complete until communication to the applicant of the acceptance of the application. *Kilcullen* v. *Metropolitan Life Ins. Co.*, 108 Mo. App. 61, 82 S. W. 966; *Busher* v. *New York Life Ins. Co.*, 72 N. H. 551, 58 Atl. 41. But it is generally held that such communication is not necessary. *Hallock* v. *Commercial Ins. Co.*, *supra*; *Kilborn* v. *Prudential Ins. Co.*, *supra*. The correctness of the decisions in the latter cases would seem to depend on whether the application contemplated an acceptance by an act and whether that act had been done. The principal case may be supported on the ground that the application contemplated an acceptance by the act of the delivery of the policy to the insured or the company's agent for him.

INTERSTATE COMMERCE — CONTROL BY STATES — JURISDICTION OF STATE COURT OVER ACTION BY CARRIER TO RECOVER UNPAID BALANCE OF SCHEDULE RATE. — A carrier by mistake charged less for an interstate shipment of freight than the rate scheduled in accordance with the Interstate Commerce Act. *Held*, that the carrier can maintain an action for the difference in a state court. *Baltimore & Ohio Southwestern Ry. Co.* v. *New Albany Box & Basket Co.*, 96 N. E. 28 (Ind., App. Ct.).

Any contract at variance with the schedule rate is void, and the carrier may recover the sum due him under the Act. *Louisiana Ry. & Navigation Co.* v. *Holly*, 127 La. 615, 53 So. 882. *Cf. Texas & Pacific Ry. Co.* v. *Mugg*, 202 U. S. 242, 26 Sup. Ct. 628. In the absence of federal regulation to the contrary, state courts may entertain suits arising from interstate commerce. *Midland Valley R. Co.* v. *Hoffman Coal Co.*, 91 Ark. 180, 120 S. W. 380; *Western Union Tel. Co.* v. *Call Publishing Co.*, 181 U. S. 92, 21 Sup. Ct. 561. Federal statutes may be enforced in state courts. *Central of Georgia Ry. Co.* v. *Sims*, 169 Ala. 295, 53 So. 826; *Bradbury* v. *Chicago, R. I. & P. Ry. Co.* 149 Ia. 51, 128 N. W. 1.